

UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF LOUISIANA

LAKE CHARLES DIVISION

WILBERT DOUCET

: DOCKET NO. 06-~~194~~²⁰⁰²

VS.

: JUDGE MINALDI

MICHAEL J. ASTRUE,
COMMISSIONER OF THE SOCIAL
SECURITY ADMINISTRATION

: MAGISTRATE JUDGE WILSON

REPORT AND RECOMMENDATION

Before the court is defendant's motion seeking remand of this action for further administrative proceedings before an administrative law judge, pursuant to the fourth sentence of 42 U.S.C. ¶ 405(g). Motion to Remand ¶ Introduction [doc. # 13].¹ This matter was brought before the court for judicial review of a final administrative decision of the Commissioner of Social Security, which found that the plaintiff was not entitled to Disability Insurance Benefits and Supplemental Security Income under Titles II and XVI of the Social Security Act.

The defendant now seeks remand for further administrative proceedings before an administrative law judge ("ALJ"), for a reevaluation of the opinion of Dr. Dale Bernauer, and for the ALJ to obtain the services of medical and vocational experts, if necessary, to ascertain the effect of plaintiff's impairments on his ability to work.

The motion to remand is unopposed by the plaintiff.

¹ The motion has been referred to the undersigned for decision pursuant to 28 U.S.C. § 636(b)(1)(A).

Section 42 U.S.C. § 405(g) authorizes entry of a judgment reversing the decision of the [Commissioner] and remanding the case for rehearing. *Melkonyan v. Sullivan*, 501 U.S. 89, 99-100 (1991). Remand for further administrative proceedings is considered a fourth sentence remand under 42 U.S.C. § 405(g). *Shalala v. Schaefer*, 509 U.S. 292, 296-97 (1993).

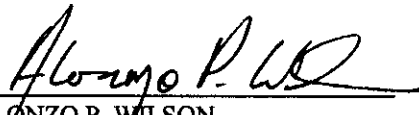
Accordingly,

IT IS RECOMMENDED that judgment be entered reversing the decision of the Commissioner pursuant to the fourth sentence of 42 U.S.C. § 405(g), and that the defendant's motion to remand [doc. # 13] be GRANTED.

Under the provisions of 28 U.S.C. §636(b)(1)(C), the parties have ten (10) business days from receipt of this Report and Recommendation to file any objections with the Clerk of Court. Timely objections will be considered by the district judge prior to a final ruling.

FAILURE TO FILE WRITTEN OBJECTIONS TO THE PROPOSED FINDINGS AND RECOMMENDATIONS CONTAINED IN THIS REPORT WITHIN TEN (10) BUSINESS DAYS FROM THE DATE OF ITS SERVICE SHALL BAR AN AGGRIEVED PARTY FROM ATTACKING ON APPEAL, EXCEPT UPON GROUNDS OF PLAIN ERROR, THE UNOBJECTED-TO PROPOSED FACTUAL FINDINGS AND LEGAL CONCLUSIONS ACCEPTED BY THE DISTRICT COURT.

THUS DONE AND SIGNED in Chambers at Lake Charles, Louisiana, on July 12, 2007.


ALONZO P. WILSON
UNITED STATES MAGISTRATE JUDGE